

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CHAPTER 11
	:	
FIELDING AND XIX FLAMINGO	:	CASE NO. 21-55048 - SMS
HOLDINGS, LLC,	:	
	:	
DEBTOR.	:	

MARY IDA TOWNSON,	:	
UNITED STATES TRUSTEE,	:	
	:	
MOVANT,	:	
	:	
v.	:	CONTESTED MATTER
	:	
FIELDING AND XIX FLAMINGO	:	
HOLDINGS, LLC,	:	
	:	
RESPONDENT.	:	

**NOTICE OF HEARING ON UNITED STATES TRUSTEE'S
MOTION TO DISMISS CASE**

PLEASE TAKE NOTICE that the United States Trustee has filed a motion requesting that the above-referenced case be dismissed.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the United States Trustee's motion in **Courtroom 1201**, United States Courthouse, 75 Ted Turner Drive, S.W., Atlanta, Georgia at **10:15 a.m. on August 18, 2021**.

Given the current public health crisis, hearings may be telephonic only. Please check the "Important Information Regarding Court Operations During COVID-19 Outbreak" tab at the top of the GANB Website (<https://www.ganb.uscourts.gov/>) prior to the hearing for instructions on whether to appear in person or by phone.

Your rights may be affected by the court's ruling on this motion. You should read this motion carefully and discuss it with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in this motion or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the motion with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is: Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Ted Turner Drive, SW, Atlanta, GA 30303. You must also mail a copy of your response to the undersigned at the address stated below.

Dated: July 7, 2021

MARY IDA TOWNSON
UNITED STATES TRUSTEE
REGION 21

By: /s/
Lindsay P. S. Kolba
Georgia Bar No. 541621
United States Department of Justice
Office of the United States Trustee
362 Richard Russell Building
75 Ted Turner Drive SW
Atlanta, Georgia 30303
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HOLDINGS, LLC,	:	
	:	
RESPONDENT.	:	

UNITED STATES TRUSTEE'S MOTION TO DISMISS CASE

Mary Ida Townson, United States Trustee for Region 21, in furtherance of the administrative responsibilities imposed by 28 U.S.C. § 586(a), respectfully moves this Court to enter an order dismissing the above-captioned Chapter 11 case for cause pursuant to 11 U.S.C. § 1112(b). In support thereof, the United States Trustee represents as follows:

1. This case was commenced July 6, 2021, by the filing on Debtor's behalf of a voluntary petition for relief under Chapter 11 of the Bankruptcy Code (the "Petition").
2. The Petition was signed by Derrick Duckworth as President of the Debtor.
3. No trustee has been appointed in the case.
4. Debtor's list of creditors filed with the Court lists one creditor – Civic Financial Services, LLC.

5. It appears on the face of the petition that Debtor is an artificial entity and that it is not represented by an attorney.

6. Because Debtor is an artificial entity, it cannot represent itself in this proceeding, nor may its officers appear before this court on its behalf unless they are licensed attorneys. *See Palazzo v. Gulf Oil Corp.*, 764 F.2d 1381, 1385 (11th Cir. 1985); *National Indep. Theatre Exhibitors, Inc. v. Buena Vista Distrib. Co.*, 748 F.2d 602, 609 (11th Cir. 1984).

WHEREFORE, the United States Trustee respectfully moves this Court to enter an order dismissing this case and granting such other relief as the Court deems just and proper.

MARY IDA TOWNSON
UNITED STATES TRUSTEE
REGION 21

_____/s/
Lindsay P. S. Kolba
Trial Attorney
Georgia Bar No. 541621
Office of the United States Trustee
362 Richard Russell Building
75 Ted Turner Drive, SW
Atlanta, Georgia 30303
(202) 360-7746
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CERTIFICATE OF SERVICE

This is to certify that I have on this day electronically filed the foregoing *Motion to Dismiss Case and Notice of Hearing* using the Bankruptcy Court's Electronic Case Filing program, which sends a notice of this document and an accompanying link to this document to the following party who has appeared in this case under the Bankruptcy Court's Electronic Case Filing program:

John T. Whaley (Sub V Trustee) trustee@jtwcpa.net, jtwwhaley@jtwcpa.net

I further certify that on this day, I caused a copy of this document to be served via United States First Class Mail, with adequate postage prepaid on the following parties at the address shown for each.

Fielding and Xix Flamingo Holdings LLC
741 Brookliur St SW
Atlanta, GA 30310

Civic Financial Services, LLC
2015 Manhattan Beach Blvd.
Redondo Beach, CA 90278

Fielding and Xix Flamingo Holdings LLC
741 Brookline St SW
Atlanta, GA 30310

Fielding and Xix Flamingo Holdings LLC
884 Murphy Ave SW
Atlanta, GA 30310

_____/s/
Lindsay P. S. Kolba
Trial Attorney
Georgia Bar No. 541621
Office of the United States Trustee
362 Richard Russell Building
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